

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 311 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL

and

MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

B.A. SHAH

Versus

STATE OF GUJARAT

Appearance:

MR BP TANNA for Appellant

MR MANKAD, AGP for Respondent No. 1

CORAM : MR.JUSTICE B.C.PATEL and

MR.JUSTICE C.K.BUCH

Date of decision: 30/11/98

ORAL JUDGEMENT [PER : B.C. PATEL, J]

The appellant, having failed in his attempt before the learned Single Judge, has filed the present Letters Patent Appeal for correction of the seniority list and consequential benefits.

The appellant was initially appointed as an

Overseer and thereafter was promoted as Deputy Engineer. The averments in the petition indicate that he was promoted as Deputy Engineer by an order dated 14.8.1972 and at the time of filing the petition, he was working under the Gujarat Water Supply & Sewerage Board on deputation from Public Health Project Circle : I at Gandhinagar. As pointed out by the learned Judge in the judgment, appellant kept quiet for a period of 13 years. Learned Single Judge was of the view that merely because under the directions of this Court the State Government had to publish seniority list again on account of the petition filed by some other person, obviously the list which was published might not be strictly in accordance with the date of promotion and, therefore, the State Government had to correct the list and ultimately published as a Final Seniority List in 1984 cannot give fresh cause of action to the appellant which had arisen in 1972. It is required to be noted that Special Civil Application was filed being Special Civil Application No. 353/73 by some Overseer and the Government was directed to resolve the question of promotion to the post of Deputy Engineer from Junior Engineer and Overseer as per the Recruitment Rules of 1960 and the order dated 29.1.1973 promoting certain juniors as Deputy Engineer was set aside by judgment and order delivered in Special Civil Application No. 353/73. Letters Patent Appeal No. 212/76 filed against the said judgment and order was dismissed.

Mr. Tanna, learned counsel has pointed out that vide Annexure:B dated 29.6.1984, after publication of the provisional list, in view of the directions given by the Court, representation was made and the same appears to have been overlooked. We are of the view that if the said representation is considered by the Government in proper

spirit, ends of justice would be met with. Hence, we allow this appeal with a direction to the State Government to consider the representation made by the appellant vide Annexure : B within a period of 6 (six) weeks from today.

Order dismissing the petition is quashed and set aside.

Appeal stands allowed accordingly with no orders as to costs.

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